assertion that incumbent splitter ownership would make high volume changes more, not less, burdensome.

Parties to the DSL collaborative discussed in considerable depth the relative merits of various configurations of splitter ownership and placement and agreed to two options, neither of which entailed incumbent ownership of the splitter. In fact, dozens of collocation installations have been put in place, and data CLECs indicated no enthusiasm for reconfiguring these for ILEC ownership.[1] In light of the heavy burden AT&T must shoulder to demonstrate that reconfiguration or change in plans adopted by the collaborative are necessary, it cannot be said to have made a convincing case. Nor is its legal argument compelling that the splitter is an intrinsic component of the loop; Verizon's response that splitters are widely available in the marketplace refutes the view that AT&T must be provided them by the incumbent or face impairment of its provision of DSL-capable loops to customers. Further, although competitors are interested in the provision by Verizon of access to the splitter function a line at a time, their evidence failed to establish that this was either a superior or a more equitable network design than that presently in place. Moreover, the FCC has not required incumbent LECs to provide access to these splitters as part of the loop, but is reviewing that determination in response to petitions for reconsideration of the UNE Remand

[1] Rhythms, for example, asserts it would be beneficial for CLECs if Verizon were to own splitters, but expresses its preference for ownership and control of splitters within its collocation space. Rhythms' Initial Brief, p. 26.

equipment in remote terminals where presently feasible, in particular the lease or placement of line cards in remote terminals that can accommodate DSLAMs. They also want us to assure that Verizon's roll-out plans will be based upon such next generation digital loop carrier technology as will accommodate the competitive presence at their remote terminal.

Verizon states that neither it nor its data affiliate has this equipment in any remote terminal in New York. That is, today no customer served by digital loop carrier can obtain DSL. Verizon testified, and no party contested, that most of its New York remote terminals are exceedingly compact, quite full already, and not designed for advanced services technology.[1] Verizon also indicated it intends to build out fiber into its network using next generation digital loop carrier.

Generally, competitors agreed with Verizon's assessment of the present system and focused their concerns on the planned and future upgrades. In addition, competitors seek packet switching on an unbundled network element basis where next generation digital loop carrier installations exist today, in order to link the Verizon remote terminal or their own equipment to the central office.[2]

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[1] Verizon testified that between 7 and 8 percent of its lines were served by next generation digital loop carrier, only some of which is compatible with line card collocation.

[2] Packet switching is defined as the process of routing and transferring data by means of addressed packets so that a channel is occupied during the transmission of the packet only, and upon completion of the transmission the channel is made available for the transfer of other traffic.

Because DSL is inherently a copper-based technology, in order for a data provider to serve customers whose service is carried in part over fiber optic cable, equipment necessary to provide DSL (i.e., DSLAMs and splitters) must be placed at the remote terminal.

On May 17, 2000, Verizon filed tariff revisions in compliance with the UNE Remand Order, offering options for competitors to gain access to its customers served by digital loop carriers. Verizon opines that, as a technical matter, it can not provide voice and data end-to-end over a loop served by digital loop carrier; and that, as a legal matter, line sharing is required only over copper loops. Therefore, it has no obligation to provide line sharing where digital loop carrier is in use. The tariff amendments allow competitors to collocate their equipment for providing DSL service at adjoining sites, where room in the incumbent's remote terminal has been exhausted, and the competitor can obtain the necessary rights-of-way. To transport the data traffic to the competitor's point of presence, the tariff offers dark fiber, for which competitors must supply the necessary electronics.[1]

Competitors consider this tariff offering so prohibitively expensive and burdensome as to amount to an impairment of their ability to provide services to customers and a denial of access to necessary elements unobtainable elsewhere on a reasonable, commercial basis. They ask us to require Verizon to offer commercially accessible collocation of DSLAM

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[1] Verizon will provide unbundled feeder to transport data between the central office and the remote terminal or adjoining competitor structure. Verizon offers the subloop, not the electronics or the packet transport. These would entail additional costs where available.

done by a menu of methods at Verizon's election, and we will not require any particular one, but will require such accommodation on a case by case basis where the current Verizon tariff offering is not commercially viable. The simplest of these methods, of course, is for Verizon to migrate the customer currently served by digital loop carrier to an all-copper loop: parties have agreed to conditions for these pair swaps or line and station transfers, and we approve this agreement. Another method is allowing competitors virtual collocation of their line cards in the incumbent's next generation digital loop carrier terminals. Where Verizon remote terminals now are capable of accommodating this equipment, and as it becomes technically feasible due to new construction of next generation remote terminals in the future, Verizon can meet its obligations by allowing competitors to place their line cards in the remote installation and making transport available. Another option, favored by incumbents in other regions, is an offering at wholesale, as a combination of elements to competitors, access to customers served by digital loop carrier. Under recent FCC decisions, Verizon can provide a wholesale service to competitors and to its data affiliate similar to that offered by SBC.

To provide DSL to customers served by digital loop carrier, competitors need to transport data from the remote terminal to the central office or other point of presence. Verizon must modify its tariff filing to include offering dark fiber from the remote terminal to the central office. Verizon does not currently meet the FCC preconditions for us to require a general offering of packet switching as a network element, because Verizon is not currently providing this element to its data affiliate. Were it to do so, Verizon would have to offer this element to all competitors. However, on a case-by-case

The Legal Requirements

In the BA/GTE Merger Order, the FCC required that to the extent a Verizon/GTE incumbent LEC allows its separate affiliate to collocate packet switches, routers, or other equipment, the nondiscrimination safeguards compel the incumbent LEC to allow unaffiliated carriers to collocate similar equipment on nondiscriminatory rates, terms and conditions.[1] To do otherwise would allow the transfer of Verizon's advanced services assets to defeat or elude its obligation to provide nondiscriminatory access to network elements and services for the provision to customers of advanced services.[2]

Further, in the UNE Remand Order, the FCC reasoned that where the incumbent has deployed digital loop carrier systems, and where no spare copper facilities are available, competitors are effectively precluded altogether from offering xDSL service if they do not have access to unbundled packet switching.[3]

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[1] BA/GTE Merger Order, ¶261.

[2] Advanced services are defined by the Federal Communications Commission (FCC) as "intrastate or interstate wireline telecommunications services...that rely on packetized technology and have the capability of supporting transmission speeds of at least 56 kilobits per second (kbps) in both directions." In re Applications of Ameritech Corp., Transferor, and SBC Communications, Inc. Transferee, for Consent to Transfer Control, CC Docket No. 98-141, Memorandum Opinion and Order (released October 8, 1999)(the Ameritech/SBC Order), ¶363.

[3] UNE Remand Order, §§304, 313.

To address this problem, the FCC required packet switching to be offered as an unbundled network element[1] under certain circumstances. More recently, the FCC noted that where technically feasible, the incumbent LEC must make physical collocation available in any of its structures that house network facilities, including remote terminals.[2]

Verizon considers its tariff amendments meet the requirements of the FCC with respect to collocation in the remote terminal and dark fiber.[3] It says it has no DSLAM capability in any of its remote terminals so that neither its advanced services affiliate nor the parent company provide advanced services through the remote terminal. Accordingly, in Verizon's view, it does not meet the preconditions the FCC listed to require provision of packet switching on an unbundled element basis.[4]

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[1] Parties also urged that Verizon be required to resell advanced services. However, since Verizon is not providing these services at retail, it is not required to provide them at retail rates (47 USC 251(c)(4)). Furthermore, VAD is not a successor or assign under 251(h)(1) (*see also* CC Docket 98-184, Application of GTE Corporation and Bell Atlantic Corporation for Consent to Transfer Control (released June 16, 2000) (BA/GTE Merger Order). Therefore, VAD is not required to resell advanced services under the FCC rules.

[2] Collocation Remand Order, ¶47.

[3] For a CLEC to use dark fiber, it must collocate and provide the electronics; Verizon then implements the cross connections necessary to connect the dark fiber. The cost and process would have to be negotiated; without more experience, Verizon is reluctant to tariff a more specific service to the central office.

[4] See 47 CFR 51.319(c)(3).

basis, where it is technically feasible for competitors to place line cards in Verizon next generation digital line carrier terminals and where this is the only commercially reasonable method for them to provide customers DSL, data service competitors may request that Verizon be required to provide packet switching.

CONCLUSION

The above determinations should add reasonable and timely requirements, consistent with federal law and FCC regulation, to ensure that Verizon carries out its wholesale functions so as to continue to maximize New Yorkers' access to a competitive market for advanced services.

The Commission orders:

1. Verizon New York Inc. f/k/a New York Telephone Company (Verizon) shall provision digital subscriber line services for a competitive data local exchange carrier's customer in intervals consistent with this order.

2. Verizon shall complete augmenting of cable and splitter capacity in competitors' collocation arrangements consistent with this order.

3. Verizon shall offer comparable line sharing, or line splitting, to voice competitor local exchange carriers serving customers using the Unbundled Network Element Platform as soon as practicable. Verizon is also directed to immediately establish a pilot for the new Telcordia software application discussed in this order, with full commercial implementation no later than March 2001.

4. Verizon will be required to offer to competitors access to customers served over digital loop carrier as it

becomes technically feasible and as is necessary for competitors to offer their services, consistent with this order.

5. Verizon should modify its dark fiber tariff offering consistent with this order.

6. This proceeding is continued.

By the Commission,

(SIGNED) JANET HAND DEIXLER
Secretary

ATTACHMENT 1

TEST ACCESS PROPOSED SETTLEMENT LANGUAGE

In the event that the parties dispute the cause or source of a trouble on a line shared loop, Covad or Rhythms may request, and Verizon will agree, to a joint technician meeting, at the main distribution frame ("MDF") serving that loop, to perform testing on the loop. This joint meeting will occur within 24 hours of the request being made to the appropriate Verizon service center (currently the RCCC or RCMC). The testing will follow routine procedures for clearing and isolating troubles and will employ hand held testing devices selected, provided, and operated by Covad or Rhythms. Such testing will involve gaining intrusive access to the line shared loop to be tested (at one or more appearances on the MDF or other Distributing Frames in the Central Office upon which the line shared loop appears) and connecting the hand held testing devices thereto. Within 15 minutes of the meeting time agreed between the parties, Covad or Rhythms shall have permission to begin testing on the MDF.

In order for the parties to have a good faith dispute about the cause or source of a trouble on a line shared loop, the parties need only disagree about the cause or source of a trouble on a line shared loop. Nevertheless, to the extent that either party has facilities in place to conduct any other form of testing of the line shared loop, it must present whatever findings it has from that testing to the other party at the time of the meeting at the MDF or within 24 hours thereof.

ATTACHMENT 2

A Pair Swap or Line and Station Transfer done in conjunction with a Line Share Arrangement request involves the reassignment and relocation of an existing Verizon end user voice service from a Digital Loop Carrier ("DLC") facility that is not qualified for line sharing to a spare or freed-up qualified non-loaded copper facility.[1] Such a swap or transfer would be done in order to support the requested service transmission parameters. This new process will be applied to all cases where Verizon encounters the customer on DLC and where Verizon can automatically reassign the customer to a spare copper facility. This effort involves additional installation work including a dispatch and will require an additional charge.

[1] A freed-up pair is a qualified, copper pair already assigned.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on January 24, 2001

COMMISSIONERS PRESENT:

Maureen O. Helmer, Chairman
Thomas J. Dunleavy
James D. Bennett
Leonard A. Weiss
Neal N. Galvin

CASE 00-C-0127 - Proceeding on Motion of the Commission to Examine Issues Concerning the Provision of Digital Subscriber Line Services.

ORDER GRANTING CLARIFICATION, GRANTING RECONSIDERATION IN PART AND DENYING RECONSIDERATION IN PART, AND ADOPTING SCHEDULE

(Issued and Effective January 29, 2001)

BY THE COMMISSION:

INTRODUCTION

Two petitions were filed seeking clarification and reconsideration of our determination concerning the wholesale provisioning of digital subscriber line (DSL) capabilities by Verizon New York, Inc. f/k/a/ New York Telephone Company (Verizon).[1] In the first petition, Verizon challenges determinations concerning the time periods for providing services to its competitors; the schedule and rationale the Commission set forth for Verizon to provide shared lines for its competitors enabling the provision of DSL to their customers just as Verizon provides it to its own; and the requirement that it allow its competitors access to customers served by remote installations in the field, in order to provide them DSL.

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[1] Opinion No. 00-12 (issued October 31, 2000)(the Order).

In the second petition, Conversent Communications of New York, LLC. (Conversent) seeks reconsideration or clarification of the Commission policy regarding Verizon activated provisioning of dark fiber, that is, fiber optic cable in the ground but not served by electronic equipment.

Verizon's reconsideration petition is opposed by AT&T Communications of New York, Inc. (AT&T), Attorney General Eliot Spitzer, Covad Communications Company (Covad), Metropolitan Telecommunications (MetTel), Rhythms Links Inc. (Rhythms), and WorldCom, Inc. (WorldCom). In addition, Verizon opposes Conversent's petition for reconsideration.

THE VERIZON PETITION

Verizon petitions for reconsideration and clarification of several determinations on the grounds of mistakes of law and fact and changed circumstances, referring to collaborative discussions among the parties subsequent to the Order. Its petition challenges determinations on intervals, line splitting, and its obligations regarding DSL when customers are served over digital loop carrier.

Intervals

The Order established the provisioning interval--that is, the interval for Verizon to accomplish the central office work necessary to enable line sharing for a competitive data carrier's customer; and the augment interval--that is, the interval for Verizon to augment a competitor's existing collocation arrangement. Verizon seeks reconsideration as to both intervals.

Provisioning Intervals

1. The Parties' Positions

The Order required Verizon immediately to reduce its maximum interval to provision line sharing for competitors from six days[2] to the lesser of four days or parity with the interval achieved by Verizon Advanced Data (VAD), Verizon's separate data affiliate; we also required the interval to decrease to the lesser of parity with VAD or three days by March 2001. Verizon filed tariff revisions reflecting this determination.

As to the interval itself, Verizon asserts the Commission misinterpreted its recent line sharing performance data as indicating more expeditious provisioning, supporting the requirement of a shorter interval. Verizon asserts that recent experience indicates it will not be able to meet an interval shorter than five days in the near future. Attributing problems to its lack of experience provisioning line sharing, it proposes a five business day interval effective March 1, 2001, followed by a reduction to three business days for installation of non-dispatch orders.

As to the standard to be applied to a line sharing metric, Verizon asserts our "lesser of" standard is inappropriate, arguing that a parity standard must be applied when the identical service is provided to competitors and to Verizon or its affiliates. Establishing an absolute standard in this instance, Verizon charges, violates the Telecommunications Act of 1996 (the Act).[3]

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[2] Six days, which excluded the time required to ensure the loop was qualified for DSL service, was derived from the interval for Verizon to provision UNE loops for DSL.

[3] See, *Iowa Utilities Board v. FCC*, 219 F.3d 744 (8th Cir. 2000), *cert. granted in part* (__U.S.__, January 22, 2001).

In response, competitors assert Verizon has had ample experience in provisioning line sharing for VAD, an identical enterprise.[4] They also argue the standard issue is best resolved in the Carrier Working Group.

2. Discussion

Reconsideration is not warranted as to the line sharing provisioning interval. Verizon's assertion that, with experience, it should be able to shorten provisioning intervals, is not a convincing argument for reinstating the six-day rule. Verizon has had ample experience provisioning line sharing for its data subsidiary--current company statements indicate it has provisioned more than half a million DSL line sharing orders footprint-wide--and can also bring that experience to bear on its competitors' behalf. Competitors correctly point out that Verizon has provisioned line sharing for both itself and its separate data affiliate thousands of times.

Verizon introduced reported Carrier to Carrier results for April and May 2000 to support its claim that it needed a six-day interval to provision its own retail line shared DSL product; in the Order we relied on these, as well as data for March and June 2000. They showed that most orders--and a growing proportion--did not require dispatch; that there was a rough trend downward (following an April jump), with an average for all orders of 6.62 days in March and 5.48 in June.[5] Orders not requiring dispatch were provisioned in even shorter intervals--for example, 4.95 days in June.

While data for line sharing provisioning intervals completed subsequent to June are inconsistent, due to the

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[4] AT&T's Opposition, p. 18.

[5] In March, approximately 70% of orders were non-dispatch; in April 72%; in May 77%, and in June 81%.

transfer of the business to VAD, the August work stoppage, and VAD's offers of longer intervals to its customers, it appears that Verizon has deployed the resources required to meet the offered provisioning intervals. Verizon has made no new factual showing that it cannot meet the intervals required in the Order.

Verizon's contention that federal law mandates a parity standard is unavailing. The absolute intervals established in Opinion No. 00-12 apply to VAD orders as well as competitor orders: all DSL providers enjoy the same protections against delay. The parity requirement is intended to ensure that Verizon does not afford VAD favorable treatment within that four-day interval. If future performance reports were to indicate, for example, that competitors' orders were filled in exactly four days but VAD's orders were consistently filled in two, troubling parity issues could arise.

The Augment Interval

1. The Parties' Positions

Verizon also seeks modification of the reduction, from 76 to 45 business days, of the time it is entitled to take to augment the cabling and splitter capacity between its main distribution frame and a competitor's collocation arrangement. One ground for its claim is that, under current working arrangements, it relies upon vendors to perform these augments and installations, and that 45 days is simply insufficient time.[6] Another is the assertion that there is no record evidence that less time is needed to do a subset of the tasks required for a new collocation installation, in comparison to the entire job. Verizon reiterates that its evidence demonstrated that even prioritizing line sharing augments to meet a June 2000 FCC deadline last spring, the time for completion averaged between

[6] Verizon's Petition, pp. 7-8.

45 and 76 business days.[7] Other parties respond that the spring 2000 roll-out was a first-time effort, and that splitter racks were being installed for the first time.[8]

Verizon, recognizing the importance of expedition to its competitors, offers to accede to data providers' requests that they be allowed to employ authorized and approved vendors to do this work. Verizon offers a plan, with schedule, for competitive data local exchange providers to hire and use such vendors.[9] Verizon proposes the superseded 76-business-day interval should be reinstated until mid-2001, when the Carrier Working Group would recommend any interval modification.

In competitors' view, there was ample record evidence to support the interval reduction;[10] and the FCC collocation order accorded states latitude to establish their own intervals. In AT&T's view, the 45-day interval should remain in place pending competitors' development of the vendor proposal with Verizon; Covad agrees, suggesting the proposal be broadened to include allowing competitors to select vendors.

2. Discussion

The Verizon proposal to revert to the 76-day interval for augments it completes is denied and the interval remains 45 business days. However, Verizon's offer to permit an alternative, competitor use of its vendors, is adopted. The

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[7] Verizon also asserts the FCC's recent establishment of a 90-calendar-day interval for collocation provides no support for our reduction of the 76-business-day interval for partial installations.

[8] Covad's Opposition, p. 7.

[9] Verizon plans to submit this proposal to the Carrier Working Group in Case 97-C-0139. Verizon's Petition, p. 9.

[10] *See* Rhythms' Opposition, p. 5.

Covad counterproposal, to enlarge the vendor pool and prevent undue Verizon restrictions on vendor selection, is referred to the Carrier Working Group in Case 97-C-0139. We have already ruled on many security issues related to the use of vendors in Cases 98-C-0690 and 95-C-0657;[11] new deliberations need not be extensive and they should smooth transition to the shorter augment interval. The Carrier Working Group is directed to discuss the logistics of, including intervals for, augments to collocation arrangements with a view to establishing task-related intervals for collocation work orders. The Carrier Working Group will report to us its recommendations as to intervals and other issues, within 90 days.

The Line Splitting Requirement

1. The Terms for Line Splitting

a. The Parties' Positions

Verizon seeks clarification that the Commission intended to find neither that the UNE-P arrangement remains intact after line splitting, nor that a new unbundled network element for the high frequency portion of the UNE-P loop was, in fact, created. In Verizon's view, once a competitor-owned splitter is added to a loop, the UNE-P combination of an analog loop, analog port, and transport is compromised, and the service should no longer be inventoried in the Verizon system as a UNE-P arrangement, but as a port and line-split loop arrangement. In

[11] Cases 98-C-0690 *et al.*, *Methods by which Competitive Local Exchange Carriers Can Obtain and Combine Unbundled Network Elements*, Opinion No. 98-18 (issued November 23, 1998).

Verizon's view, this approach is mandated by the FCC SBC/Texas §271 determination.[12]

Verizon also seeks clarification of the October 31, 2000 Order as to whether or not we intended to create a new unbundled network element consisting of the high frequency portion of the UNE-P loop. Verizon asserts the record lacks support for such a finding, this specific issue was not litigated in the proceeding, and that the creation of this new element conflicts with the FCC rule, which accords to the competitor purchasing a loop control of the full capability of that element.[13]

In response, AT&T, Covad, and WorldCom agree the Order did not establish an unbundled network element for UNE-P line splitting. Voice competitors view they are entitled to all the features, functions, and capabilities of the incumbent's loop, including the high frequency portion,[14] and assert the FCC intended the UNE-P arrangement to survive the addition of a splitter to a loop.[15] AT&T also argues the combination of elements provided competitors is unchanged with the addition of the splitter to the loop. In MetTel's view, the definitional questions are tangential to the factual finding in the Order

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[12] *In the Matter of Application by SBC Communications Inc. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order (rel. June 30, 2000), ¶325, cited in Verizon's Petition (SBC/Texas §271 Order), p. 11.

[13] Verizon's Petition, pp. 12-13.

[14] AT&T's Opposition, p. 11, citing *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 99-238 (rel. November 5, 1999)(UNE Remand Order), ¶167

[15] AT&T's Opposition, p. 5, citing the SBC/Texas §271 Order, ¶325.

that line splitting and line sharing are indistinguishable from an engineering viewpoint.

b. Discussion

Verizon does not seek reconsideration of our determination that it is required to facilitate line splitting for its competitors: it does seek clarification of the applicable terms and reconsideration of the timetable. Our determination that Verizon must offer line splitting on the same basis it offers line sharing is based upon the findings on the record in this proceeding that voice competitors cannot compete effectively absent the capacity to offer DSL service on customers' existing lines; and that data competitors cannot compete effectively absent the capacity to serve customers obtaining voice service from providers other than the incumbent. Verizon has adduced no new facts or mistakes in law requiring revisiting this requirement. However, we grant clarification to the following extent: the Order did not make a formal finding that the high frequency portion of the UNE-P loop is a new unbundled network element.

We also reiterate that provision of line splitting is not inconsistent with the UNE-P mode of entry. The issue appears to be one of systems management, not law, at this time, and we make no legal determination today. While a recent FCC order discusses the relationship between line splitting and

UNE-P service,[16] our determination is based on the market implications for New York of one choice or another. The immediate practical consequence of the definitional issue is that Verizon sought to have competitors adopt the OSS systems developed for loop and port ordering for use in ordering line splitting. However, Verizon has now agreed in the collaborative that competitors place line splitting orders using the OSS systems in widespread and effective operation for ordering UNE-P. Therefore, Verizon is making the necessary modifications to its OSS systems to accommodate line splitting ordering, provisioning, billing, maintenance, and inventory. Accordingly, reconsideration is rendered academic.

2. The Timetable for Line Splitting

a. The Parties' Positions

Verizon also seeks reconsideration or clarification of the timetable for enabling competitors to offer DSL on their voice customers' lines as Verizon does on its own. In the Order, Verizon was required to so modify its OSS as to support electronic line splitting orders by competitors by March 2001; to make line splitting available as soon as practicable, with or without an electronic system; and to institute a pilot. Verizon asserts these requirements are based upon factual errors, and that the record in the proceeding lacks evidence concerning the OSS modifications necessary on Verizon's part for it to offer

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[16] The FCC recently ruled that incumbent local exchange carriers have a current obligation to provide competing carriers with the ability to engage in line splitting arrangements using the UNE platform where the competing carrier purchases the entire loop and provides its own splitter. CC Docket No. 98-147, *Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Third Report and Order on Reconsideration (released January 19, 2001)(Line Sharing Reconsideration Order), ¶¶ 18, 19.

line splitting by March 2001.[17] Verizon argues the business rules for line splitting were still in dispute during the technical conference and that, absent agreement on those rules, it could develop no meaningful prognosis concerning the scope or schedule of the associated programming effort. Verizon attributes delay to competitor disputes and inaction, as well as to its August work stoppage. Verizon proposes the Commission modify its requirement that OSS line splitting upgrades be available in March.

In response, AT&T urges that the deadline be reaffirmed, and that the Commission seek statutory penalties for any failure to comply. AT&T notes that Verizon has not provided the Commission or parties a detailed work plan supporting its contention that it cannot complete the line splitting OSS until October 2001. The Attorney General asserts the Verizon petition should be denied upon the ground that it serves to delay the availability of advanced services to a broad range of New York consumers.

b. Discussion

Subsequent to the filing of Verizon's petition and parties' comments in opposition, Verizon proposed to parties and Staff a detailed, phased timetable to test and offer line splitting. Based upon consideration of this offer, Verizon's request for reconsideration of the line splitting OSS timetable is granted to the extent the schedule is modified as follows: preliminary implementation of line splitting, for addition of

[17] Verizon asserts the March 2001 deadline should refer exclusively to development of OSS upgrades to support line sharing rather than line splitting, the subject of its testimony in the course of the proceeding.

data to an existing voice platform account,[18] shall be available no later than June 2001,[19] at reasonable volumes as requested by interested competitors, without any adverse impact on customers' existing voice service. Verizon shall support full commercial availability of line splitting no later than October 2001. Future requests for changes to this schedule are referred to Administrative Law Judge Eleanor Stein.

It is undisputed that the parties commenced discussion of line splitting in the collaborative a year ago;[20] that in April 2000 Verizon formally posed numerous questions to competitors concerning their business rules for line splitting; and that in August 2000, the competitors submitted their initial detailed business rules to Verizon. Verizon has been able to provide its customers line shared DSL for approximately two years; it must commit today the resources to meet an aggressive implementation schedule to afford competitors the same service.[21] Since actual development work has been delayed by about two months pending agreement by competitors on the service descriptions, and since Verizon now offers an acceptable phased-in approach, the Verizon schedule is adopted.

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[18] This is the line splitting service defined by the collaborative as Scenario 3, permutation 2.

[19] To meet this date, Verizon shall release the code to support this service for competitor testing no later than May 20, 2001.

[20] *See* Minutes of the DSL Collaborative Meeting of January 6, 2000, available on the PSC Website at www.dps.state.ny.us.

[21] We note that the FCC Line Sharing Reconsideration Order places upon incumbent carriers "a current obligation to provide competing carriers with the ability to engage in line splitting arrangements." ¶18.

Provision of DSL to Customers
Served by Digital Loop Carrier

1. The Parties' Position

Verizon also seeks rehearing of the requirement that it offer competitors a menu of options to provide DSL to their customers currently served by digital loop carrier technology rather than all-copper loops. Approximately 15% of Verizon NY's loops are served by digital loop carrier technology. Verizon intends to continue replacing all-copper loops with these part-fiber/part-copper loops. It offers competitors tariffed methods of constructing their own remote installations and connecting to Verizon's network at the remote site. While concluding that Verizon was not required, under the FCC framework, to make a general offering of unbundled packet switching, which would enable competitors freely to serve all such customers, the Order required Verizon to offer competitors a range of additional options case by case to provide DSL to customers served by or migrated to digital loop carrier, where the tariffed offerings are not commercially viable, where now practical, and as such accommodations become technically feasible. It also required Verizon immediately to notify us, and the industry, as it developed plans to provide DSL to these customers itself or through its separate data subsidiary, to ensure competitive parity.

Verizon seeks modification of these requirements. It asserts that the FCC has preempted states' authority to require unbundled packet switching if the federal criteria are not met; that the Commission may not require Verizon to provide an element to competitors it does not provide to itself, citing *Iowa Utilities Board v. FCC*[22] and that requiring Verizon to,

[22] 219 F.3d 744 (8th Cir. 2000), *cert. granted in part* (__U.S.__), January 22, 2001).